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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4614 of 1991

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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TECHNICAL INVESTIGATOR

Versus

SPECIAL PRINTS

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Appearance:

MR KS NANAVATI for Respondent No. 1

MR HL JANI ASST. GOVERNMENT PLEADER for Respondent No. 2

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CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 28/07/2000

ORAL JUDGEMENT

1. This petition has been preferred by the Technical Investigator attached to the Commissioner, Ministry of Textiles, in the Union of India, against the order dated 21-5-1991, passed by the District Supplies Officer,

Surat, whereby he was directed to release the seized textile goods manufactured by respondent No.1, carrying on the business in the name and style of M/s. Special Prints, Surat.

2. The brief facts relevant are that the petitioner who is a Technical Investigator paid a surprise visit to the premises of the respondent Company at Surat on 30-11-1989. In the course of inspection, he found certain quantity of manufactured textile goods packed but not stamped in terms of the Notification issued under Textiles (Control) Order 1986, issued under Section 3 of the Essential Commodities Act, 1955. The textile goods which are found not duly stamped were seized under a panchanama and a report was made of the seizure to the District Supplies Officer in order to initiate proceedings of confiscation of the seized goods for alleged contravention of the Textile Control Order and the Notification issued thereunder.

3. On receipt of the report of the seizure by the District Supplies Officer, the District Supplies Officer gave a show cause notice to the manufacturer - respondent No.1 and after accepting his explanation for not stamping the goods which were seized, directed their release in favour of respondent No.1.

4. No one appears on behalf of the petitioner. The matter is of the year 1991. I, therefore, perused the papers of the petition and heard learned counsel appearing for the respondent No.1.

5. The main ground urged in the petition is that no notice or opportunity of hearing was given to the petitioner, who, as Technical Investigator had conducted the surprise check of the premises of respondent No.1 and had reported seizure of the goods for contravention of the textile control order. The ground urged is that notice and opportunity of hearing to the Technical Investigator who had initiated the criminal action was necessary as part of principles of natural justice. The second ground urged on merits is that had an opportunity been given to the petitioner as an Investigator, he would have pointed out the different stands taken at different stages by the manufacturer explaining non-stamping of the manufactured textile goods. Along with the petition soon after the surprise inspection letter dated 4-12-1989 sent by the manufacturer has been annexed. It is pointed out that the explanation for non-stamping of goods stated to be is that there was inadvertence on the part of the packing department.

6. A different stand was however taken before the District Supplies Officer before whom, on service of notice for confiscation, the explanation submitted was that the goods were earmarked for export and therefore they were not stamped. It is submitted that for want of notice and opportunity of hearing, the investigating agency could not point out the above inconsistency in the explanation submitted on behalf of the manufacturer.

7. After hearing the learned counsel appearing for the manufacturer on the grounds urged in the petition on behalf of the Investigator, I have looked into the relevant provisions contained in Section 6A and 6B of the Essential Goods Act, 1955. The provisions of Section 6A require that where any essential commodity is seized for alleged contravention of the provisions of the Act or the Order or Notification issued thereunder, the Authority effecting the seizure shall make a report to the Authority empowered to confiscate the seized goods for alleged contravention of the Act, Order or the Notification.

8. The provisions of Section 6B require issuance of a show cause notice to the owner of the goods before the order of confiscation. These provisions of Section 6B require following the principles of natural justice by giving opportunity of show cause and hearing to the owner of the essential commodity seized and sought to be confiscated. There is no provision either in Section 6A, 6B or in any of the other Sections of the Act requiring the confiscating authority to issue notice to the Investigator.

9. Under the scheme of the Act, it appears that confiscating authority itself is the prosecuting agency and therefore, Investigator was not separately required to be noticed before ordering confiscation or releasing the goods. The confiscating authority being itself the prosecutor in the matter of alleged contravention of the provisions of the Act, Order or the Notification, there is no requirement of service of notice on the Investigator. Such requirement is not to be found in the provisions of the Act and cannot be read into it even by implication.

10. So far as grounds urged on facts of the case are concerned, it is no doubt true that the explanation submitted for non-stamping of goods in the letter dated 4-12-1989 and the explanation taken before the District Supplies Officer as mentioned in the order dated

21-5-1991 are different. The learned counsel appearing for the manufacturer however, explains that letter dated 4-12-1989 containing the explanation of inadvertence on the part of the packing staff was given soon after effecting the seizure on 30-11-1989. A considered explanation however, came to be submitted before the District Supplies Officer on the service of a show cause notice for confiscation. The District Supplies Officer did not find that the explanation offered was false and there was dishonest intention on the part of the manufacturer in the alleged contravention of the provisions of the Notification, Order and the Act.

11. Learned counsel appearing for the manufacturer also points out that although there were directions of this Court on 15-7-1991 to maintain status quo, the goods seized and later on released in favour of the manufacturer have already been disposed of.

In the aforesaid circumstances, this Court finds no ground to grant any relief in the present petition. Consequently, the petition fails and it is hereby dismissed, but, in the circumstances, without any order as to costs.

(D.M. DHARMADHIKARI, C.J.)

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